

BOIES, SCHILLER & FLEXNER LLP  
 RICHARD J. POCKER (NV Bar No. 3568)  
 300 South Fourth Street, Suite 800  
 Las Vegas, NV 89101  
 TELEPHONE: (702) 382-7300  
 FACSIMILE: (702) 382-2755  
 rpocker@bsfllp.com

BOIES, SCHILLER & FLEXNER LLP  
 STEVEN C. HOLTZMAN (*pro hac vice*)  
 FRED NORTON (*pro hac vice*)  
 KIERAN P. RINGGENBERG (*pro hac vice*)  
 1999 Harrison Street, Suite 900  
 Oakland, CA 94612  
 TELEPHONE: (510) 874-1000  
 FACSIMILE: (510) 874-1460  
 sholtzman@bsfllp.com  
 fnorton@bsfllp.com  
 kringgenberg@bsfllp.com

BINGHAM McCUTCHEN LLP  
 GEOFFREY M. HOWARD (*pro hac vice*)  
 BREE HANN (*pro hac vice*)  
 THOMAS S. HIXSON (*pro hac vice*)  
 KRISTEN A. PALUMBO (*pro hac vice*)  
 THREE EMBARCADERO CENTER  
 SAN FRANCISCO, CA 94111-4067  
 Telephone: 415.393.2000  
 Facsimile: 415.393.2286  
 geoff.howard@bingham.com  
 thomas.hixson@bingham.com  
 kristen.palumbo@bingham.com

DORIAN DALEY (*pro hac vice*)  
 DEBORAH K. MILLER (*pro hac vice*)  
 JAMES C. MAROULIS (*pro hac vice*)  
 ORACLE CORPORATION  
 500 Oracle Parkway  
 M/S 5op7  
 Redwood City, CA 94070  
 Telephone: 650.506.4846  
 Facsimile: 650.506.7114  
 dorian.daley@oracle.com  
 deborah.miller@oracle.com  
 jim.maroulis@oracle.com

Attorneys for Plaintiffs  
 Oracle USA, Inc., Oracle America, Inc., and  
 Oracle International Corp.

SHOOK, HARDY & BACON LLP  
 B. Trent Webb (*pro hac vice*)  
 Eric Buresh (*pro hac vice*)  
 2555 Grand Boulevard  
 Kansas City, Missouri 64108-2613  
 Telephone: (816) 474-6550  
 Facsimile: (816) 421-5547  
 bwebb@shb.com  
 eburesh@shb.com

Robert H. Reckers (*pro hac vice*)  
 600 Travis Street, Suite 1600  
 Houston, Texas 77002  
 Telephone: (713) 227-8008  
 Facsimile: (713) 227-9508  
 rreckers@shb.com

LEWIS AND ROCA LLP  
 W. West Allen (Nevada Bar No. 5566)  
 3993 Howard Hughes Parkway, Suite 600  
 Las Vegas, Nevada 89169  
 Tel: (702) 949-8200  
 Fax: (702) 949-8398  
 Wallen@LRLaw.com

GREENBERG TRAURIG  
 Mark G. Tratos (Nevada Bar No. 1086)  
 Brandon Roos (Nevada Bar No. 7888)  
 Leslie Godfrey (Nevada Bar No. 10229)  
 3773 Howard Hughes Parkway  
 Suite 400 North  
 Las Vegas, NV 89169  
 Telephone: (702) 792-3773  
 Facsimile: (702) 792-9002  
 tratosm@gtlaw.com  
 roosb@gtlaw.com  
 godfrey1@gtlaw.com

Attorneys for Defendants Rimini Street,  
 Inc., and Seth Ravin

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ORACLE USA, INC., a Colorado corporation;  
ORACLE AMERICA, INC., A Delaware  
corporation; and ORACLE INTERNATIONAL  
CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;  
AND SETH RAVIN, an individual,

Defendants.

Case No. 2:10-cv-0106-LRH-PAL

**JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT AND  
[PROPOSED] ORDER**

Date: September 20, 2011  
Time: 9:00 a.m.  
Place: Courtroom 3B  
Judge: Magistrate Peggy A. Leen

Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corp. (collectively, “Oracle” or “Plaintiffs”) and Defendants Rimini Street, Inc. (“Rimini Street”) and Seth Ravin (“Ravin”) (together, “Rimini” or “Defendants”; together with Oracle, the “Parties”) jointly submit this Case Management Conference Statement and [Proposed] Order in advance of the September 20, 2011 Case Management Conference (“CMC”) to provide the Court with a status report of the pending matters.

Part I addresses the current status of the pleadings. Part II provides a status report on the party and non-party discovery to date. Part III sets forth the Parties’ stipulation regarding depositions and Requests for Admission.

As there are no issues that currently require the Court’s attention, and as discovery is proceeding in accordance with the schedule set by the Court, the Parties jointly request that the September 20 CMC be vacated and rescheduled for the week of November 7, 2011. The Parties propose November 8, 2011.

**I. PLEADINGS**

No changes have been made to the pleadings since the Parties filed their Joint Case Management Statement on August 2, 2011.

**II. DISCOVERY PROGRESS**

Since the last Joint Case Management Statement was filed on August 2, 2011, the Parties have made the following progress in discovery:

**A. Discovery Sought From and Produced By Plaintiffs.**

**1. Documents**

On August 10, 2011, Rimini served its Fourth Set of Requests for Production, consisting of 19 requests. Between August 2, 2011 and the submission of this statement, Oracle has produced more than 140,000 additional documents, totaling more than 775,000 pages, including thousands of voluminous Excel files, customer contracts and related documentation, customer-specific reports (referred to as “oki3 reports”), software and support materials, copyright registrations, deposit materials, download audit and download metrics logs and related information, product tables, terms of use and e-delivery licenses.

**a. Custodial Productions**

On September 8, 2011, Oracle substantially completed document productions from all 55 agreed-upon Oracle production custodians, consistent with Oracle’s discovery responses and objections.

**b. Non-Custodial Productions**

Oracle continues to gather and review non-custodial documents for production, including customer contract documents, copyright registrations, deposit materials, and software. The volume and timing of these productions have been impacted by the lack of progress in the pre-trial stipulations the parties have been negotiating for several months. Currently, Oracle has produced approximately 90% of the requested PeopleSoft, J.D. Edwards and Siebel customer contract documents. Oracle expects to complete its production of these customer contract documents by the end of October.

On August 30, Oracle completed its production of all outstanding copyright registrations, deposit materials, and software, consistent with its discovery responses and objections. Production of further historical information regarding the development of certain of Oracle’s registered, copyrighted software is ongoing.

**2. Interrogatories**

On September 2, 2011, Rimini served Oracle with its Fourth Set of Interrogatories, which consisted of Interrogatory No. 16.

**3. Requests for Admission**

Rimini has not served Oracle with any Requests for Admissions since the last Case Management Conference.

**4. Depositions**

Rimini has taken two depositions of Oracle witnesses since the last Case Management Conference, while one additional deposition notice for an Oracle employee remains pending at this time.

**B. Discovery sought from and produced by Defendants**

**1. Documents**

Oracle served its Second Request for Inspection to Rimini Street on August 25, 2011, and its Sixth Set of Requests for Production to Rimini Street on September 7, 2011, numbered 66 through 82. Between August 2, 2011 and the submission of this statement, Rimini has produced approximately 294,000 additional documents, totaling approximately 1,798,000 pages. These materials include e-mails, log files, archive material, share drive material, updated HRMS data, customer service agreements, additional SharePoint data and over 73,100 native files. In addition, Rimini has produced approximately 76 additional environments as well as various other one-off native productions relating to Salesforce exports, TUSS spreadsheet, DevTrack spreadsheets and Client Physical Media files, as requested by Oracle. To date, Rimini has produced over 754,000 documents totaling over 6,048,000 pages, as well as over 81,200 native files, numerous environments, financial information, ticketing system data, data archive, source code, log files, various extract and individual VMs and network shares.

**a. Custodial Productions**

Rimini has substantially completed document productions from all 55 agreed-upon Rimini's production custodians, consistent with Rimini's discovery responses and objections.

**b. Non-Custodial Productions**

1 Rimini has completed gathering, reviewing and producing non-custodial documents,  
2 including materials from various department shares and non-custodial email files. Productions  
3 from these sources included data relating to financial, client relationships, marketing and sales.

## 4 **2. Interrogatories**

5 On August 26, 2011, Oracle served Rimini Street with Oracle's Seventh Set of  
6 Interrogatories, numbered 27-31.

## 7 **3. Requests for Admission**

8 On August 26, 2011, Oracle International Corp. served Rimini Street with its First Set of  
9 Requests for Admission, numbered 1-18.

## 10 **4. Depositions**

11 Oracle took depositions on September 1, September 7 and September 16, totaling three  
12 depositions since the last Joint Case Management Statement was filed. Oracle's deposition of a  
13 Rimini Street former employee has been rescheduled to September 27. Oracle has scheduled the  
14 deposition of one Rimini Street employee for October 4, and Rimini has offered dates in mid-  
15 October for a second employee deposition. Oracle's deposition of Defendant Seth Ravin has  
16 been rescheduled to October 28, 2011.

## 17 **C. Third Party Discovery**

### 18 **1. Customers**

19 As of the filing of this statement, Oracle has served a total of 254 customer subpoenas.  
20 Oracle has received approximately 230 document productions in response to these subpoenas.  
21 Oracle continues to seek the cooperation of subpoenaed customers with outstanding or deficient  
22 productions.

23 Oracle's effort to process and produce customer productions to Rimini is ongoing.  
24 Oracle has sent approximately 173 customer productions to Rimini and received approximately  
25 18 third-party productions from Rimini.

26 Oracle has made state "sunshine act" requests of 46 public entities that may have  
27 had significant contact with Rimini, and 43 entities have responded with a substantive  
28 production. Oracle's effort to process and produce public entity productions to Rimini is

1 ongoing. No new formal requests have been made since the last CMC; however, Oracle made an  
2 informal second request to one entity on September 1. Oracle has sent approximately 37 public  
3 entity productions to Rimini. The Parties' review of the sunshine act materials is ongoing.

4 Oracle has served four notices of customer depositions, is negotiating with one customer  
5 regarding deposition date prior to service, and plans to notice several additional customer  
6 depositions in September. Oracle will timely notice the remainder of its allotted, two-hour  
7 customer depositions as it continues to review Defendants' and customers' ongoing document  
8 productions.

## 9 2. Other Third Parties

10 Since the last CMC, Oracle has continued to negotiate with other third parties regarding  
11 discovery. This includes third-party support providers CedarCrestone, netCustomer, Summit  
12 Technology, and Spinnaker. Oracle served a subpoena on JMP Securities on September 2.  
13 Oracle also received a further production of documents from Rimini investor Adams Street  
14 Partners on August 19.

## 15 III. STIPULATIONS AND REQUEST TO RESCHEDULE CASE 16 MANAGEMENT CONFERENCE

17 For much of 2011, the Parties have been grappling with how to develop trial proof  
18 relating to the vast and complex data associated with the claims and defenses in this case. As the  
19 Parties have reported to the Court on prior occasions, the Parties have been negotiating with  
20 respect to possible stipulations relating to extrapolation and to Oracle's copyright registrations  
21 since March 29, 2011. Unfortunately, the Parties appear to be at impasse regarding any  
22 stipulated extrapolation, because the Parties disagree about whether any stipulation should result  
23 in limitation of the damages theories and evidence in support of those theories that Oracle may  
24 present at trial. Given this impasse and the present late stage of discovery, Rimini Street has  
25 agreed that Oracle may take four additional depositions. From Rimini's perspective, these  
26 additional depositions account for the Parties' present failure to agree to the terms of the  
27 stipulations, and Rimini will opposes any further expansion of the deposition limits. On the  
28 other hand, Oracle reserves all rights as to whether additional depositions may be necessary. The

1 Parties have also reached an agreement about Requests for Admission.

2 **A. Summary of Stipulation Negotiations**

3 At the March 29, 2011 status conference, the Court urged the Parties to develop  
4 representative samples of data against which to develop discovery and to stipulate to undisputed  
5 facts where possible.

6 As set out in the Parties' Joint Case Management Statements dated May 13, 2011, Dkt.  
7 136, and August 2, 2011, Dkt. 160, the Parties have been negotiating with respect to possible  
8 stipulations relating to extrapolation and to Oracle's copyright registrations for over five months.  
9 Since the Parties last reported their progress to the Court, Oracle has sent further drafts of an  
10 extrapolation stipulation on August 7 and August 24, to which Defendants responded on August  
11 26. The parties have met and conferred in person on August 9, and by telephone on August 19  
12 and September 8. All told, the parties have exchanged approximately seven draft stipulations (on  
13 essentially three subjects: environment copies, fixes, and foundational facts) and engaged in  
14 approximately ten hours of in-person or telephonic meeting and conferring over six separate  
15 sessions.

16 The Parties have discussed extrapolating the analysis of two categories of data:  
17 environments (installed copies of Oracle's enterprise software) and fixes (the code objects  
18 delivered to customers in the course of supporting Oracle enterprise software; the vast majority  
19 of these code objects are themselves derived from existing environments).

20 **B. Discovery Stipulations**

21 In order to further develop the record regarding Rimini Street's use of local environments  
22 and Rimini Street's development of PeopleSoft fixes, the Parties have agreed that, in addition to  
23 the 20 non-customer depositions currently permitted under the Court's Discovery Plan and  
24 Scheduling Order, Dkt. 109, Oracle may take two additional depositions limited to six record  
25 hours and two additional depositions limited to three record hours.

26 The Parties have also met and conferred on Requests for Admissions. Rimini has agreed  
27 that each side may have up to 250 RFAs. Rimini has further stated that it would be open to  
28 further expansion of this limit, provided the requests are used efficiently. While reserving its

rights regarding the appropriate RFA limit, if any, Oracle has agreed to serve up to 250 RFAs and to meet and confer if it believes in good faith that it may require additional RFAs.

As there are no issues that require the Court's attention, and as discovery is proceeding in accordance with the schedule set by the Court, the Parties jointly request that the September 20 CMC be vacated and rescheduled for the week of November 7, 2011. The Parties propose November 8, 2011, if that date would be convenient for the Court. A proposed order granting such relief is included herewith.

DATED: September 19, 2011

BINGHAM McCUTCHEN LLP

SHOOK, HARDY & BACON LLP

By: /s/ Geoffrey M. Howard  
 Geoffrey M. Howard (*pro hac vice*)  
 Three Embarcadero Center  
 San Francisco, CA 94111-4067  
 Telephone: 415.393.2000  
 Facsimile: 415.393.2286  
 geoff.howard@bingham.com

By: /s/ Robert H. Reckers  
 Robert H. Reckers (*pro hac vice*)  
 600 Travis Street, Suite 1600  
 Houston, Texas 77002  
 Telephone: (713) 227-8008  
 Facsimile: (713) 227-9508  
 rreckers@shb.com

*Attorneys for Plaintiffs*

*Attorneys for Defendants*

#### **ATTESTATION OF FILER**

The signatories to this document are myself and Robert Reckers and I have obtained Mr. Reckers's concurrence to file this document on his behalf.

DATED: September 19, 2011

BINGHAM McCUTCHEN LLP

By: /s/ Geoffrey M. Howard  
 Geoffrey M. Howard (*pro hac vice*)  
 Three Embarcadero Center  
 San Francisco, CA 94111-4067  
 Telephone: 415.393.2000  
 Facsimile: 415.393.2286  
 geoff.howard@bingham.com

*Attorneys for Plaintiffs*



**[PROPOSED] ORDER**

It is hereby **ORDERED** that the discovery limits in the case are modified as followed:

1. By agreement of the parties, subject to Oracle's reservation of rights, each side may serve up to 250 Requests for Admission.
2. By agreement of the parties, Oracle may take four additional depositions of non-customers: two additional depositions of up to six record hours and two additional depositions of up to three record hours, for a total of 24 non-customer depositions.
3. The September 20, 2011 CMC is vacated and rescheduled for \_\_\_\_\_, 2011 at \_\_\_\_\_ in Courtroom 3B.

\_\_\_\_\_  
Hon. Peggy A. Leen

United States Magistrate Judge